

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JAMAL MURRAY,
Plaintiff,

vs.

OHIO DEPARTMENT OF CORRECTIONS, et al.,
Defendants.

Case No. 1:14-cv-168
Black, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

On December 30, 2015, defendant Ernie L. Moore, by and through counsel, moved the Court pursuant to Fed. R. Civ. P. 41(b) to dismiss this action with prejudice for failure to prosecute. (Doc. 28). Plaintiff failed to respond to defendant's motion and on February 4, 2016, the Court issued a Report and Recommendation that this case be dismissed with prejudice for lack of prosecution. (Doc. 32).

After the undersigned's Report and Recommendation was filed, plaintiff filed an amended complaint on February 17, 2016 identifying the John Doe defendants named in his original complaint. (*See* Doc. 33). However, plaintiff did not file any objection to the Report and Recommendation, he did not provide any explanation for his delay in filing his amended complaint, and he did not explain why his case should not be dismissed for lack of prosecution.

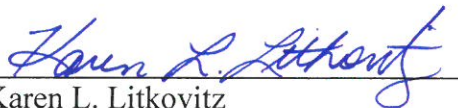
On March 21, 2016, the Court ordered plaintiff to show cause why the Court should reconsider its recommendation to dismiss this case for lack of prosecution. (Doc. 34). Plaintiff responded to the Show Cause Order and showed good cause why this matter should not be dismissed. Thereafter, the Court withdrew its Report and Recommendation to dismiss this case. (Doc. 36).

By separate order issued this date, the Court has ordered the United States Marshal to

serve plaintiff's complaint and amended complaint upon defendants Amy Wise, Dr. Heyd, and Ms. Weiss, the previously unnamed John Doe defendants. Upon receipt of defendants' answer to the complaint, the Court will set a new calendar order in this case.

IT IS THEREFORE RECOMMENDED that defendant's motion to dismiss for lack of prosecution be **DENIED** as moot.

Date: 5/6/16


Karen L. Litkovitz
United States Magistrate Judge

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NOTICE TO THE PARTIES REGARDING THE FILING OF OBJECTIONS TO R&R

Pursuant to Fed. R. Civ. P. 72(b), WITHIN 14 DAYS after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections WITHIN 14 DAYS after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).